

v. Gisling, Bull. N. P. 197. By the express words of the Statute the plaintiff, in replying fraud, may aver that the recovery was *by covin*, without showing wherein the covin consisted. Exceptions in the enacting clause of a statute must be negatived by the plaintiff in the declaration, or it is bad on demurrer, but a separate proviso though in the same section, Steel v. Smith, 1 B. & A. 94, and a proviso in a subsequent statute, Pilkington v. Cooke, 16 M. & W. 615, must be shown by the other side in order to exempt himself from the penalty, see Rawlings v. the State *supra*, and cases there cited.

Damages are not given in popular actions for the detention of the debt, because the plaintiff has no interest until the recovery, see Cuming v. Sibley, 4 Burr. 2489.

STATUTES

Made at WESTMINSTER, Anno 11 HEN. VII. and A. D. 1494.

CAP. XII.

A Mean to help and speed poor Persons in their Suits.

Prayen the Commons in this present Parliament assembled, That where the King our Sovereign Lord, of his most gracious Disposition, willeth and intendeth indifferent Justice to be had and ministred, according to his Common Laws, to all his true Subjects, as well to the poor as rich, which poor Subjects be not of Ability ne Power to sue according to the Laws of this Land for the Redress of Injuries and Wrongs to them daily done, as well concerning their Persons and their Inheritance, as other causes: (2) For remedy whereof, in the behalf of the poor Persons of this Land, not able to sue for their Remedy after the course of the Common Law; be it ordained and enacted by your Highness, and by the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by Authority of the same, That every poor Person or Persons, which have, or hereafter shall have cause of Action or Actions against
263 *any Person or Persons within this Realm, shall have, by the Discretion of the Chancellor of this Realm for the time being, Writ or Writs Original, and Writs of *subpœna*, accord-